

9 FAM PART IV Appendix G, 100 CONSULAR DUTIES

(TL:VISA-272; 05-09-2001)

9 FAM 101 CONSULAR OFFICERS' RESPONSIBILITY

(TL:VISA-272; 05-09-2001)

The consular officer is responsible for conducting as complete a clearance as is necessary to establish the eligibility of the applicant to receive a visa. This responsibility includes:

- a. Checking the Consular Lookout and Support System (CLASS) and other appropriate post records in all cases [See 9 FAM Appendix G, 200];*
- b. Completing clearance procedures with other posts when indicated [See 9 FAM Appendix G, 300];*
- c. Requesting Washington agency name checks or security advisory opinions (SAOs) from the Department when required [See 9 FAM Appendix G, 400 and 9 FAM Appendix G, 500]; and*
- d. In certain cases, submitting the original visa application (Form OF-156), or a copy thereof, to the FBI [See 9FAM Appendix F, 600].*

9 FAM 102 DEFINITIONS

(TL:VISA-272; 05-09-2001)

The following terms are used in connection with visa clearances:

- a. "Clearance" means the process of obtaining information pertaining to an applicant's visa eligibility from records available to the Department (through Washington agency name check and security advisory opinion requests) or at Foreign Service posts (through checks of post records and/or outside sources).*
- b. The "Commonwealth of Independent States (CIS)" is composed of the following countries: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. It does not include the Baltic countries of Estonia, Latvia, and Lithuania.*
- c. "Communist and Communist Controlled Countries" are currently considered to be China (People's Republic of), Cuba, Laos, North Korea, and Vietnam.*

d. The "Consular Lookout and Support System (CLASS)", which replaced the "Automated Visa Lookout System (AVLOS)", consists of the computerized name search system which is connected to the Department's central name check files or the Distributed Name check System (DNC) which is used as a backup.

e. "Name Check" or "Washington Agency Name Check" means a search of the records of other USG agencies upon a request to the Department by a consular officer. Washington agency name checks, when required, must be conducted in addition to, and not in lieu of, the mandatory checks of CLASS.

f. "Port of Entry (POE)" means the place at which an alien is inspected by the Immigration and Naturalization Service to determine his or her eligibility for entry into the United States.

g. "Postcheck" or "Postclearance" means that checks of appropriate information sources, other than the mandatory check of CLASS, are conducted after visa issuance. No immigrant visa case or case requiring a security advisory opinion may be processed on a postcheck basis.

h. "Post Records" means the Consular Lookout and Support System (CLASS), other records of the consular section, and information from the political section, economic section, and any other USG agency at post which may be available to the consular officer.

i. "Precheck" or "Preclearance" means that all appropriate sources of information are checked prior to visa issuance.

j. "Proscribed Organization" means any group which falls within the purview of INA 212(a)(3)(D). A member or affiliate of a proscribed organization is ineligible for an immigrant visa unless he or she qualifies for relief.

k. "Residence" means a person's place of general abode; i. e., his or her principal, actual dwelling place in fact, without regard to intent.

l. "Security Advisory Opinion (SAO)" means the Department's advice on the security aspects of any visa case submitted by a consular officer. The processing of security advisory opinions includes the completion of Washington agency name checks.

m. "Sources of Information" for clearance purposes include the following:

- (1) Post records;
- (2) Local police and security authorities;
- (3) The records of other Foreign Service posts;

(4) *The investigative resources of the Department (name checks and SAOs);*

(5) *Supervisory diplomatic and consular officers in the country of application;*

(6) *Diplomatic and consular officers of other countries; and*

(7) *Any other resources available to the consular officer.*

9 FAM 103 OTHER AVAILABLE GUIDANCE

9 FAM 103.1 Related Sources of Guidance

(TL:VISA-272; 05-09-2001)

Consular officers should consider the clearance procedures discussed in this Appendix in conjunction with the relevant portions of 9 FAM, Appendix D, 200 and the examples of clearance telegrams found in 9 FAM, Appendix E, 200.

9 FAM 103.2 Country-Specific "Special Clearance and Issuance Procedures" are on the Intranet and Internet

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The Visa Reciprocity and Country Documents Finder contains specific information on the special clearance requirements for nationals of each country. The Intranet version is posted at 9 FAM Part IV Appendix C, and is also located at <http://10.8.2.249/ReciprocityWeb/index.htm>. The Internet version can be found at <http://travel.state.gov/visas/reciprocity/index.htm>. These country-specific instructions supplement, and must be used with, the general clearance guidance found here. Consular officers should be familiar with any special clearance requirements affecting nationals of their host country, and should consult the appropriate country listing for third-country applicants prior to visa issuance.

9 FAM 104 CLASS ENTRIES BY CONSULAR POSTS

9 FAM 104.1 Posts Usually Responsible for Entering Ineligible Aliens

(TL:VISA-272; 05-09-2001)

It is vital to the clearance process that all visa issuing posts enter into CLASS the names, dates and places of birth, and refusal or lookout codes of most aliens found, or believed to be, ineligible for visas. These entries, when required, should be made directly by on-line posts, and through CLOK telegrams by posts using the visa lookout microfiche.

9 FAM 104.2 Exception in Certain Security Advisory Opinion Cases

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As an exception to the policy stated above, the Department will directly enter into CLASS the names of all visa applicants on whom it has rendered a security advisory opinion determining that information available on the applicant is sufficient for a finding of ineligibility under INA 212(a)(3). The appropriate refusal code and the post's country code will be used when making such entries. The reason for this exception is to avoid any delay in watchlisting aliens who are excludable for security reasons. In such cases, the post need not reenter the alien's name at the time the consular officer formally denies the visa unless it wishes to do so for internal record-keeping purposes.

9 FAM 105 EVALUATION OF INTELLIGENCE INFORMATION

9 FAM 105.1 Assessment of Information and Source

(TL:VISA-272; 05-09-2001)

When information of a security nature, obtained from any source, is to be furnished to another consular post or to the Department, the consular officer shall provide the receiving office with an evaluation of both the credibility and applicability of the information and the reliability of the source.

9 FAM 105.2 Evaluation of Organizational Membership

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When information is provided to another post or to the Department about an applicant's membership in, or affiliation with, an organization which may be unknown to the recipient, the consular officer shall indicate whether the organization falls within the purview of INA 212(a)(3)(D). The officer should also advise the requesting post if the alien's organizational membership or affiliation, although not proscribed, should invite special scrutiny (e.g., an organization involved in terrorist activity). Finally, the consular officer shall assess, if possible, whether the nature of the applicant's membership or affiliation may render him or her ineligible for a visa.

9 FAM 106 U.S. POLICE CLEARANCES

(TL:VISA-272; 05-09-2001)

a. In response to recent legislation (Pub. L. 103-236 and Pub. L. 103-317), the Department is implementing two pilot programs in which immigrant visa applicants will be checked for criminal records. One program requires the National Visa Center to clear immigrant visa applicants over the age of 16 through the Interstate Identification Index (III) of the National Crime Information Center (NCIC) and to obtain criminal records identified there from the FBI. The second program institutes, in the ten countries having the highest volume of U.S. immigrant visas issued, the fingerprinting of immigrant visa applicants over 16 years of age for submission to the FBI.

b. Apart from these pilot programs, checks of the FBI's criminal records for aliens are considered unavailable. Consular officers may ask visa applicants to obtain clearances from police authorities in local jurisdictions, however, if the officer has reason to believe that the alien has engaged in criminal activity and may have a police record in that jurisdiction.

9 FAM 107 CLEARING IMMIGRANT VISA APPLICANTS

(TL:VISA-272; 05-09-2001)

Consular posts must initiate necessary clearances at the earliest possible time for immigrant visa applicants who are either not subject to numerical limitations or are subject to a numerical limitation for which visa numbers are currently available. Posts should request clearances for applicants chargeable to a numerical limitation for which numbers are not currently available as soon as the applicant's priority date is within the qualifying date given in the latest Visa Bulletin. This will correspond to the time the file is shipped to the consular post by the National Visa Center.

9 FAM 108 CLEARANCE PROCEDURES FOR REFUGEES

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As a general rule, applicants for refugee status are subject to the same clearance procedures as those required for immigrant visa applicants [Also, see 9 FAM Appendix O, 609].